G.P.O.

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Department of Customs & Sea

OFFICE Board of Revenue

STATION Madras

mis No. 946

Dated 27 4 23

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To whom sent

Pages in the file

(SUBJECT.)

Asst Secy (Kamaraja Sastri) Deference of mulgeni dars over his own mulgani. Recommendations vetoed

Not to be filled in the case of permanent records.

Back Paper.

Dis.	No.	Department. / Series.	Date.	Dis.	No.	Department / Series.	Date.

Further Papers.

Dis.	No.	Department. / Series.	Date.	Dis.	No.	Department. / Series.	Date

From

S.E. Rego,
Land-holder,
Mangalore (South Kanara)

H&C 84174
G. 2841

To

The Hon: A.Y.G. Campbell, Esq., C.I.E., I.C.S.,
Commissioner of Land Revenue and
Settlement Revenue Board,
Madras.

Respected Sir,

As a member of the conference of land-holders held at Mangalore on 12th October 1922 I beg to be allowed to submit for your Honour's kind consideration the following representation which I am sorry I failed to represent at the conference and I hope you will kindly condone my remissness and graciously consider the case on its merits.

2. Kumki land is admittedly the right of the Wargdar and is so granted to him on Darkhast in preference.

3. Latterly mulgenidars were granted preference over their lessor Wargdars as regards kumki land adjoining the mulgeni holdings; it is right and equitable so long as the mulgenidar retains the Darkhasted kumki for the benefit of the mulgeni holding and is in a position to surrender the Darkhasted kumki along with the mulgeni holding when the lease becomes determined by failure to pay rent or for any other stipulation in the lease, as in the case of any land got by the mortgagor and treated as an accretion to the mortgaged property.

4. The mulgenidars taking advantage of the grant of Patta in their sole right, sell their right in the Darkhasted kumki retaining only the mulgeni holding, to the prejudice of the rights of the Wargdar to possession

on surrender or forfeiture of the lease, of the Darkhasted kumki also with the holding.

5. Wargdars therefore claim protection against unjust alienation of Darkhasted kumki apart from the mulgeni holding and as a remedy humbly beg to suggest that Pattas granted to mulgenidars in respect of the kumki land in preference to the wargdars shall in future be joint Pattas in the names of both the mulgenidar and the wargdar analogous to the separate Pattas granted to the mulgenidars in respect of their mulgeni holdings. *Pattas already issued may also be so altered.* SLR 17.X.22.

Beg to remain,

Respected Sir

Your most humble and obedient servant,

Mangalore,

Dated: October 17,'22.

Sild Rego

Board of Revenue,
Land Revenue & Settlement,
23rd October 1922.

I write to acknowledge the receipt of your letter dated October 17th regarding the disposal of darkhasts for kumki lands.

23.10.22

S. E. Rego Esq.,
Land-holder, Mangalore.

Office Note.

In which department of the Board should this question be considered? If in the Settlement branch please let me have a note on the subject.

23.10.22

Despatched
23-10-22

2

A.S. (Scott)

Please see Commissioners' note at foot of page 3 of the file. The subject is dealt with in the B Section (L&R branch) and this may be referred to that Section.

Wee
30/10/22

Lus
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JW4
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FOR MEMBER

12-15

11/11

of mulgenidars — Assne of
dist patta —

READ AGAIN B.P., No. _____ dated _____ 191

" " " — _____ , " — _____ 191

22-4-22

8-3-22 READ ALSO :—

Register No. _____, From the B.4174/22-2, No. _____, dated _____ 191

" "——"— " "——, "——, "—— 191

" "——" " "——, "——, "——191

RESOLUTION B 4174-22-1

No. _____, dated 10/11/22. 191

Mr/ 9.XI.22

ors in reference to the
accompanying representation
from Mrs. Rego, in the matter of
assignment of Kumaki
lands to mulgenidars
in preference to their own mulgai
The Collector of South Kanara is
requested to ascertain the opinio
of a few representatives both of
vaogdars & mulgenidars whether
there would be any objection to
making any dasakhasted kumaki
land, obtained on dasakhast
by the mulgenidars on the strength
of his mulgeni right, being

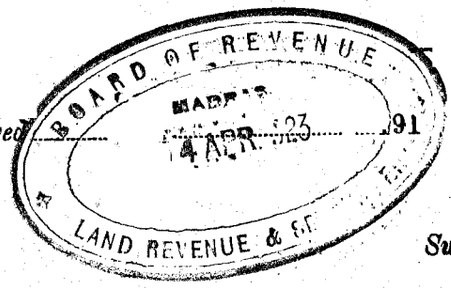
6/-

entered in the mulgavi patta of

The ordinance of the mulgavi Shanbhag

in the whole area patta

REVENUE **DEPARTMENT.**



Received ..... 191. *Registered* B1496 191

Subject.

Board's Reference No.B. 4174-22-1, dated 10th November-1922.

Assignment - land (South Kanara) - Wargdars and Mulgenidars - Issue of a joint patta.

ENCLOSURES.
No.
Spare copies

Ref.on No. V6-7086-22.

Station Mangalore, *Dated the* 29th March 1923

To As
this may be over
till the records from
M.R.O. are rect

From (Name) M.R.Ry. Rao Bahadur S.M.V. Rajachar Avl., B.A.,
(Designation) Collector of South Kanara.

To The Secretary to the Board,
Land Revenue,
MADRAS.

Sir,

As ordered by the Board, I have ascertained the opinion of several representatives both of wargdars and mulgenidars on the point. Copies of their statements with the English translations and copies of the reports of my Divisional Officers whom I consulted are submitted.

2. The present rule of preference in favour of the mulgenidar over his own mulgar is contained in para 10-(1) and note (iii) at page 10 of B.P.No.10-L.R., dated 28th February 1922 embodying the re-draft of B.S.O.No.-15. It was first enunciated by the Collector Mr. - Wynne in 1888 in R.A.No.16/88 and was accepted by the -

Board in B.P.Mis.No. 7382 L.R., dated 17th December 1888 - passed on appeal from Mr.Wynne's decision in R.A.~~X~~/88. - It was adopted as rule 8 (c) of the special darkhast rules sanctioned for this district in G.O.No.219, Revenue, dated 19th April 1895 communicated in B.P.Mis., 2408.L.R.,dated 11th May 1895. as recommended by the Board in B.P.No.48.L.R dated 12th February 1895. for the reasons explained in para 7 of the Collector's (Mr. Dance) letter printed at page 2 - of the B.P. last quoted.

3, The point now raised cropped up in 1906 in connection with the revision of the special darkhast rules of this district, and the then Huzur Sheristedar Mr.M. Venkat Rau, (now-retired) put forward the very point in para 22 of his Office-note dated 6th November 1906 (extract enclosed), relying on - sections 43 and 108 of the Transfer of Property Act IV of -- 1882, whereupon the then Collector Mr. Azizuddin referred the ~~petition~~ question to the Board in his letter dated 6th January 1907. - printed at page 3 of B.P.No. 260.L.R., dated 2nd October 1907 suggesting amendment of the rule in question for the reasons - explained therein, but the Board after consulting Mr.Couchman vetoed Mr. Azizuddin's proposal in para 6 of B.P.No.65-L.R., - dated 1st March 1907.

4 Most of the persons now consulted have no objection - to the Darkhasted kumaki land being included in the mulgeni - patta. The Divisional Officers of Mangalore and Coondapoor are also of the same opinion.

5. Those that are not in favour of the proposed change consists mainly of the mulgenidars. They are for allowing the present state of affairs to continue, as, in their opinion, the disadvantages are not wholly on ~~the~~ one side for they say that just as the mulgar is in danger of losing the ----- kumaki in the event of the resumption of the mulgeni holding for breach of the condition of the lease, so the mulgenidar has equally the chance of his being deprived of the mulgeni holding if it is brought to sale through the mulgar's failur to pay the assessment. As regards this, it may be said tha the proposed change would remove the disadvantages on both -

gether different aspect. His objection seems to be - really formidable. He takes exception to the issue of - a joint patta itself when under the rules, the kumaki --- could be assigned to only one person i.e., the mulgenidar. Such a joint patta, if issued, he says, will not be valid, as the Civil Courts do not look to the patta but only to - the title, and the title has been declared by the Madras - High Court in a case reported in 35 Madras Law Journal at page 120 (Kodi Sankara Bhatta verses Moidine and others) to be in the person in whose favour the darkhast order is passed. He is therefore in favour of a special legislation defining the rights and liabilities of the mulgenidar in the kumaki land assigned to him and the Divisional ---- Officer, Puttur agrees with him. Apart from the above - High Court ruling, I think that by issuing a mulgeni patta Government will be creating a tenancy between two persons against their consent. I mention this fact simply to -- point out the infeasibility of the present proposal.

6. The grievance of the mulgar on account of the ---- present rule is, however, real as reported by my Divisional Officers and the remedy proposed being ineffective, the -- only course open to Government seems to be either legislation or amendment of the darkhast rules. This has been necessitated by the recent ruling of the Madras High ----- Court in Kantu verses Dasa Upadya reported in 26 I.C. at - page 376 which has ~~under~~ made Section .108 of the Transfer of ------- Property Act inapplicable to the cases in question by --- declaring that land acquired in darkhast from Government - by a mulgeni lessee is not an appurtenance of the properties held by him under the mulgeni lease. Of the two courses mentioned above, I should think that the latter would be - the best as being more expedient and less troublesome than the former. The amendment of the darkhast rules might be made after consultaion with the Government Law Officers at Madras, by saddling the grant of the kumaki to the mulgenidar with the condition that he should not alienate the -- darkhast kumaki except with the mulgeni holding to which -

act is attached and that if he does so, the grant will become null and void and will lapse to Government, as such a condition would preserve and protect the existing common interest of both the mulgar and the mulgenidar in the kumaki.

5.4.23

For Collector.

BS/US. 20/3.P.

5.4.23

To - The Collector of South Kanara, Mangalore

No.- L.Dis.C.C. 1272/1922,

Dated- the 31st January 1923.

Reference - Your Ref.C.No. 7086-22-V-6, dated 16-11-22 regarding issue of joint patta for darkhasted kumaki of mulgeni lands.

Under the existing darkhast rules mulgeni tenants have preference over their land-lords in getting on darkhast lands forming kumaki to their mulgeni holding. When such kumaki lands are assigned to the mulgeni tenants they become the absolute property of the tenants Mr.Rego urges that when the mulgeni tenants are dispossessed of their mulgeni holding for breach of the conditions of the lease there is no means for the mulgars of recovering the darkhasted kumaki from the mulgeni tenants. I understant that in recent years the Madras High Court has held that the tenants in such cases hold the darkhasted kumaki as a trust for the mulgars.

3. I have consulted several mulgars as well as mulgeni tenants in the matter. The former agree with Mr.Rego in his suggestion and the latter maintain that the existing rules are equitable. One of the ryots at Baindur told me an instance in which a mulgeni tenant took undue advantage of the present darkhast rules. He seems to have taken up on darkhast the kumaki land all round the mulgeni property and began to negotiate with the mulgar in view to relinquish the mulgeni property retaining the darkhasted kumaki for himself. It is also urged that in cases where the kumaki lands contain valuable treegrowth the mulgeni tenants may after taking up the kumaki on darkhast sell away the treegrowth and relinquish the mulgeni property; in which case the valus of the property is considerably reduced and so long as the Government assign the land in the sole name of the mulgeni tenant no civil suit will lie for damages

4. It now remains to consider the aspect of the question so far as it affects the mulgeni tenants. The mulgeni tenants paying at present a pretty good rent for kumaki lands

upon it as his own and bestows the utmost care for its conservation and improvement. The preference is also an inducement to the mulgeni tenant to take up the land on darkhast when however the title for the land becomes divided by reason of the proposed -- insertion of another's name as mulgar the mulgeni tenant will not be so zealous about improving it. This will naturally result in a marked decrease in the extent of waste lands brought under improvement. The rights and privileges of the mulgar -- and the mulgeni tenant with regard to the darkhasted kumaki -- will be uncertain and civil litigation will increase. It is also feared that the issue of a joint patta will give a handle to the rich mulgars with which they may tease the weaker ---- tenants

5 On a careful consideration of the question I am inclined to think that the proposed changesin the rules may be carried out as the points urged against them are, after all, of rare -- occurence. and the grievances of the mulgars are more real. I do not think that the mulgars will have much scope for teasing the mulgeni tenants.

6. As regards the pattas already issued I do not think that unless some legislation is introduced we can alter them now.

/True Copy/

BS/US.30/3.A.

Combd 4/2
5.4.23

Letter from - M.R.Ry.H.Ganapathi Rau,Avl., Land Holder and Pleader in Puttur, Uppinangady Taluk.
To - The Revenue Divisional Officer. Puttur Division.
No.- nil,
Dated - 14th December 1922.

Adverting to your reference on the endorsement of the Collector of South KanaraRef.on C.No.7086-22-V6,dated 16th Ultimo on the question of issuing mulgeni patta in the name of Mulgenidar and Wargdar, I have the honour to offer my remarks as follows:-

1. On reading the petition of Mr.S.E.Rego, I am inclined to believe that he thinks that the difficulty pointed out by him is cured and removed by the issue of mulgeni patta in the name of Mulgenidar and Mulgar (wargdar) and that the Mulgenidar is handicapped in alienating the darkhasted kumaki land obtained by him on the strength of his mulgeni lease and the chance of separation of kumaki from the main warg is lost to the Mulgenidar. This sort of patta is far from efficacious. In the first place as the reported cases of the High Courts would decide the patta is not at all an index of title. Besides the joint pattas cannot be issued unless the darkhast order itself is passed in the names of both the Mulgenidar and the Mulgar. Such an order is not feasible for the Revenue Authorities to pass as the darkhast rules prescribed for this district (vide B.S.O.No.15) clearly provide that the kumaki or adjacent land is to be assigned to the Mulgenidar in preference to the Mulgar. When the darkhast order itself is in the name of one person (Mulgenidar) how are the Revenue Authorities entitled to issue joint patta? The term joint patta connotes that there are two owners having equal rights. When the darkhast order is in the name of one man (Mulgenidar) how is the name of the Mulgar to be inserted in the patta? Perhaps Mr. Rego is labouring under the impression that the patta now issued in the case of Mulgeni holdings in the name of the Mulgar with the name of the Mulgenidar added is analogous to the patta he now proposes to issue. This is certainly not a joint patta. Here only the Mukgar's name is extended or enlarged by tacking on the Mulgenidar's name. In fact the two titles are distinct. There is no conjunction 'and' inter-

similar description in the case of darkhasted kumaki will not avail anything to the wargdar and will not prevent the alienation of darkhasted kumaki independently of the main warg. In the case of a darkhasted kumaki in the name of mulgenidar there are no dis-tinct titles. Both the titles are vested in the mulgenidar. - Unless and until the darkhast order is passed creating joint ---- rights in the name of the wargdar as well, no alienation can be - prevented by the mere issue of a patta on the lines indicated by- MR.S.E. Rego. The High Court of Madras has decided in a similar case of this district where the question was as to the recovery of a darkhasted kumaki land on redemption of the usufructuary mortgage of the main land (mulgar's land) that the darkhast order absolutely creates title in the person infavour of whom the darkhast order is passed apart from the difficulty and inconvenience exercised by - the wargdar (vide 35 Madras Law Journal Reports page 120 Kodi --- Shankara Bhatta V Moidin). This decision is good law and re - - mains current.

2. No doubt it is a hardship for us land-holders to recover - only the mulgeni holding in case of a forfeiture of a mulgeni --- lease and to allow an outsider to whom the mulgenidar alienates - the darkhasted kumaki before or after the forfeiture of the lease. This state of affairs practically reduces to the difficulty of -- one man's occupying the main house and a stranger's occupying the verandah or the Courtyard of the same house.

3. All these practical difficulties cannot be avoided by the issue of a patta as suggested by Mr.S.E. Rego. These can be --- overcome only by special legislation to the effect that kumaki -- darkhasted for by the mulgenidar are inalienable apart from the - main mulgeni holding and that kumaki lands can under no circum-stances be granted to any other applicant that the mulgenidar or mulgar. If legislation cannot be undertaken in the near future, the darkhast rules may be so changed as to confer the kumaki ---- plots on the wargdar and mulgenidar jointly on condition that the mulgenidar alone is entitled to the actual enjoyment of the dar-khasted kumaki, that the assignment of the kumaki will remain can-celled in case of alienation apart from the main land (mulgeni -- land), that from that day forwards the mulgenidar will be deem-

to be entitled to possession and enjoyment of the darkhasted kumaki land and that it will be deemed assigned to the wargdar from that day forwards.

I have, therefore, the honour to conclude that I am -- not in favour of issuing a patta in the name of the mulgenidar and mulgar but in favour of my proposal to change the --- B.S.O. Bo.15 or undertake legislation on the lines suggested above.

/True Copy/

(Sd) x x x x x
For Revenue Divisional Officer,

/True Copy/

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BS/US 30/3-A.

Copy of para 22 of the Office-note dated the 6th November 1906.

22. The South Canara rule 8 also gives the rights of preference to the mulgeni tenant. The grounds on which the mulgeni tenant is allowed these rights are stated in para 7 of Mr. Dance's letter. While the other two Divisional officers say nothing against this. Mr. Baslullah questions the soundness of the principle on which the claims of a mulgeni tenant are at present preferred to those of the registered pattadar of the mulgeni holding. His reasons are as follows:

Government looks to the pattadar and not to the "mulgeni holder for payment of the assessment on the holding "and I think it anomalous to recognise in the latter kumaki "rights preferential to those vested in the former. A "mulgeni lease is, like any other lease, - a contract between the landlord and the tenant, and the mere fact that "that it is a permanent lease does not make it a whit better "than a private contract so long as the Government holds the 'landlord and not the mulgeni tenant responsible for the 'payment of the assessment. It might perhaps be argued 'that kumaki is a privilege attached to the enjoyment of the 'wargland; but so long as this privilege is not conveyed to 'the mulgeni tenant by an express provision to that effect - 'in the mulgeni chit. I fail to see how we can legally 'transfer a privilege vested in the landlord to his tenant. 'In disposing of darkhast appeals I have been frequently 'confronted with the apparent injustice and illegality of - 'this procedure and in some cases. I had to deviate from it by resorting to that all-embracing provision in the darkhast rules which lays down that when considerations of equity require it, the rules can be departed from.

I mention these circumstances merely to show that this anomalous treatment of the tenant as against his landlord - however justifiable it may be in exceptional cases where considerations of equity dictate it, is decidedly unfair as a general rule.

"The modification in this regard in the appendix "is based on the above considerations."

Mr. Robertson also took a similar view in his Proceedings Dis.No.174 R/Ver. dated 25th March 1905 passed in Revenue Appeal No.7/05 which referred to the kindred question of cutting timbers from kumaki. But as stated by ------ Mr. Dance in para 7 of his letter, the ------- practice followed in the district since 1888 has been to prefer the claim of the mulgeni tenant to that of the landlord in consequence of the decision of Mr. Wynne in darkhast appeal No.16/88, the principle laid down in which was approved by the Board in its Proceedings No.7382 Misc.L.R. dated 7th --- December 88 (passed in an appeal from Mr. Wynne's decision in - Revenue Appeal No.22/88 in which he referred to his previous -- decision in appeal No.16/88) and was again tacitly approved in B.P.No.48 L.R. dated 12th February 95 when approving the ------ present darkhast rules. These rulings of the Board were ----- referred to in our letter to Board Dis.No.675 D/Ver. dated 21st April 06 and the Board while dismissing the third appeal in --- the case on the ground that more than one appeal is inadmissible in darkhast cases also remarked that there are no grounds to -- warrant the Board's interference in revision. It is therefore a question whether the point should now be reopened. But in - paras 4 & 5 of B.P.Rev.B.No.457 dated 3rd July 03 printed in -- B.P.No.195 L.R. dated 30th September 03 the Board remarked as - follows:- "In the earlier Proceedings of the Board formulating "rules for the disposal of darkhasts, the expression used in "this connection was "a ryot whose land adjoined." In revising " the darkhast rules in 1892, the Board substituted for the --- "word "ryot" the word"pattadar" as being more clear. It is "not possible to say whether the Board then intended to dis- "tinguish a "pattadar" from an "inamdar" as there is no note or "discussion on record on this point".

'It is a guiding principle of Revenue Administration to 'look only to registry in the revenue accounts and to take no notice of title and rights between

"Mulgeni tenants will be preferred to non-pattadars and -- mulgeni tenants of - kadim warglands, although not entitled to preference to the pattadars of such -- lands will be ------ preferred to other - pattadars unless the latter are adjoining holders and the ---- mulgeni tenants not.'

(#)

(P)

"have been duly so registered. Accordingly, in answer to -
"the question whether a person who was the real owner of a -
[illegible] but who had not secured a patta -
"therefor in his name, was entitled to preferential consider
"ation under paragraph 8 (i)(3) of Standing Order No.15, the
Board in its Proceedings No.9 dated 11th January 1898 -
"stated that the individual should obtain a transfer of -
"patta in his name before his claims could be considered and
that he should, when necessary, be given time to secure the
"transfer. The principle is presumably based on the -
"assumption that as far as Government is concerned the -
"pattadar is the owner of the land. No such presumption -
"however arises in regard to inams which in many cases consis
"only of the assessment on the lands." The Board, however,
recommended in para 7 of its said Proceedings that all -
inamdars who are connected with the adjacent lands either as
owners or as recipients of the assessment might be admitted -
to the right of adjacent holders. But the Government in -
their Order No.795 R dated 5th August 03 said that they were
averse to extending the privilege granted under Standing -
order No.15, 8(3)(a) to inamdar should not be considered to -
have the right of adjacent landholder under the rule referred
to, remarking that they were not aware that the term pattadar
had ever been held to include inamdars. Only milgeni tenants
[illegible] pattadars though their status as milgenidars is
now recognised in the revenue accounts such as the patta, the
Settlement Diglott Register and Village Account No.10. It
is to be here observed that at the time B.P.No.7382 Misc. -
dated 17th December 88 quoted by Mr. Dance was passed the -
word "ryot" was used in the Standing Order and the Board
accordingly said in the said Proceedings that "without enter-
[illegible] question of the exact legal status of a milgeni-
[illegible] that he has a sufficient occupancy right
to constitute him an adjoining ryot within the meaning of -
[illegible] the word "ryot" had been substituted by
[illegible]

make objection to the grant of the adjacency privilege etc. to the mulgeni tenant. The position of a mulgeni tenant does not, however, seem to differ from that of an inamdar who owns land and who is not merely the recipient of the assessment. If, therefore, the adjacency privilege is to be granted to the mulgeni tenant it can only be on the grou that he has already been admitted to that privilege while an inamdar never was. It is also to be remarked that the conditions of a mulgeni lease as regards the enjoyment of the adjoining kumaki land by the mulgeni tenant are not uniform. Sometimes the kumaki land is expressly included in the mulgenichit and even a rent is separately charged on the palmyra or other trees standing on it which yield an income while in some other cases the kumki land is either expressly entirely excluded from the mulgenichit or ----- restrictions are put upon the tenant's enjoyment of the same. In either of these cases if we grant the kumkiland to the mulgeni tenant in preference to the landlord it will be going contrary to the terms of the mulgeni contract and though the land is no doubt at the disposal of Government, there is no reason why we should ighore the conditions of the mulgeni lease while we admit the mulgeni lease in proof of the mulgeni tenancy. If we give the land on darkhast to the landlord in preference to the mulgeni tenant, the tenant will not be prejudiced thereby in cases in which the kumaki land is included in the lease, as section 43 of the Transfer of Property Act No.IV of 1882 will secure the tenant's rights under the lease ----- though at the time of the grant of the lease the landlord was not the owner of the kumki land. It may however, be ---- ntered if th ... expressly excluded from the mulgeni lease. Here we may either deny to the tenant all benefit in the kumki land in accordan...

where a person erroneously represents that is authorised to transfer certain immoveable pro and professes to transfer such property for consideration, such transfer at the option of the transferee, operates on interest which the transferor may acquire such property, at any time during which the contract of transfer subsists.

L. Dis.C.C.1290/22/Rev. Revenue Divisional Office,
Mangalore, dated 20th Decem.22.

50 / 16

From,

M.R.Ry. T.P. Kunhi Raman, Avergal,
Revenue Divisional Officer, Mangalore Division.

To,

The Collector of South Kanara.

Sir,

Assignment - Land - wargdars and mulgenidars - issue of a joint patta recommended - Collector's Reference-No.7088-22-V-6, dated 16-11-1922.

Herewith I submit the viewsof some of the wargdars -- and mulgenidars of my division. All except six of them are in favour of the proposal. My Tahsildar also supports the view and I agree with him.

(Sd) x x x x x x
For Revenue Divisional Officer.
20-12-22.

/True Copy/

Compd VB 5.4.73

BS/US.29/3.P.

From - I.A.Peer Muhammed Saheb Bahadur,B.A., Revenue Divisional Officer, Puttur Division.
To : The Collector of South Kanara.
No.- Dis.585.D/Rev.22.
Dated - 24th December 1922.

Your Ref.C.7086-22-V6 dated 16-11-22 - Assignment - Land - Wargdars and Mulgenidars - Issue of Joint patta- Report submitted.

Of the six gentlemen consulted, one has not replied so far. Three agree with Mr. Rego to have the name of the Mulgar also in the patta granted to the Mulgenidar to the kumaki of the mulgeni land assigned to him. One, while agreeing with them, adds that the Mulgenidar should be given compensation for the improvements in the kumaki lands assigned on darkhast.

2. The sixth gentleman, M.R.Ry. H.Ganapath Rau Avl., Pleader and President, Taluk Board, Puttur, suggests a legislation in the matter. I enclose a copy of his letter in which he discusses the matter at some length.

3. I am in favour of a legislation defining the rights and liabilities of the Mulgenidar in the kumaki land assigned

to him.

/True Copy/

BS/US. 29/3.P. Compld
5-4-22.

-5-F-20

connection with the patta land of which it is kumaki and not independantly thereof vide (Kumaki Rule No.11). If the --- latter course is followed we may -- secure the benefit of the kumki to the mulgeni tenant by including the kumaki land when it is assigned on darkhast to the pattadar in the mulgeni patta of the landlord and not in his ordinary patta. This course may also be followed in cases where the kumki land is included in the mulgeni lease. This course -- will be both legal and equitable and cannot be objected to -- even by the mulgeni tenant as he is not entitled in law to -- have any property assigned to him by virtue of his being a -- mulgeni tenant so as to create in it a tenure different from that of the mulgeni holding vide clause (d) of section 108 - of the Transfer of Property Act. The same course may be followed - when the land adjoining the patta land does not form kumki, as in - the case of hosagame wargs, ----- since the principle on which the adjacency privilege is ----- based is analogous to the kumki privilehe so far as the ----- darkhast rules are concerned. The above remarks all apply - to cases where the contention is between the mulgeni tenant - and his landlord. In cases where the landlord does not want the land the mulgeni tenant may be considered to have a ----- preferential claim as between him and other claimants as ---- laid down in the draft rule proposed by Mr. Baslullah.

"That the aforesaid privileges "shall in no way be alienated "except with the land to which " they are attached".

(d) "if, during the continuance of the lease, any accession is made to the property, such ---- accession (subject to the law - relating to alluvion for the -- time being in force) shall be - deemed to be comprised in the - lease."

/True Extract/

P Ramarao 5/4
For Collector.

M.D'S.31/P.2/4.

-5-23

FOR MEMBER

Subject.—

R, F, XXII-A-19—21,580—12-16.

Agst. Ors (Kanara South)
Preference of mulgenidars over
his own mulgars — Reconsideration
refused.

READ AGAIN B.P., No. _____ dated _____ 191

" " " _____, " _____ 191

READ ALSO ;

Register No. _____, From the B. 4174/22 & to both, No. _____, dated _____ 191

" " _____ " " Refce 9/10/22 & to Colr. B. 1496/23 & to mr. Rego. " _____ 191.

" " _____ " " _____, " _____ 191.

RESOLUTION. (Revised). No. 946, dated 27-6-1923

Cases in which the mulgenidar relinquishes his holding are rare. The kumaki seldom has any value apart from the main holding. To alter the present position of affairs would give rise to more hardship than it would remove. The Board, therefore, see no need for any change.

The Collector is requested to inform Mr. Rego of the substance of the Board's decision in the matter.

2. Mr. S.E. Rego, Land holder, Mangalore is referred to the Colr. for orders.

for

To the Colr. of S. Kanara. with Statt. rete 10/23-51c.7.

To Mrs. S. E. Rego
Land holder
Mangalore para 2
of my letter dated.

Bogt. Land (S. Kanara) wargadars & mulgenidars —.

B. 4174/22.

201. (S) AS

To AS. Please See the representation made by Mr. Rego on behalf of the wargdars of the Dt. in the matter of granting lands to the mulgeni tenants in preference to their wargdars.

p 2C-7

p. 130 of the S.K. Dt manual.

mulgenidars are permanent tenants and they are not liable to be ousted by the wargdar ~~under~~ in ordinary circumstances. ∓ Cases of ejection will be only rare.

For orders whether the suggestion may be vetoed.

Perhaps Mr. Ellis' (Malabar) remarks may be obtained.

Ob 4/XI/22.

A/11-11

Ash Coll. S. Kanara

to mention in opinion of a few representative heads of wargdars & Mulgenidars whether there would be any objection to making any distinction between Kumeki land, obtained on distinction of the Mulgenidar on the strength of his mulgeni right, being entered in the mulgeni folio, & the name of the mulgar shown as in the whole new folio (show draft).

Draft Sub'd

Dft Circ

10.XI.22

10/11/22

Sub'd Registry 10:11:22 Dft Circ 10.5-6 C.7.

Letter from the Colls of S. Kanara. Dft 7-10 C.7. [B.1496/23]

To Secy

Please see paragraphs 2 & 3 of the Colls's report at Dft 7-8 C.7.

For orders whether the question should now be reopened and the darkhast rules which have so recently been recast should be amended.

para. 40 of B.S.O No 15 (revised)

Regd is, in this connection, invited to the present M.I.'s Remarks at page 12. N. 7 of (T)

× Dft 65 (Cress) 1.8.07.

234/23 Sub'd 23/4/23

Dft Circ

Dft Circ

Circ in which the [illegible] dar relinquishes his holding are rare. The kumak seldom has any real value apart from the main holding. To allow the present position of affairs would give rise to more hardship than it would remove. There

Dft Circ

Draft

25.IV.23.

Dft Circ

To Secy

Draft Sub'd.

254/23 Sub'd 23/4/23

Dft Circ 26/4/23